

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION**

Civil Action No. 4:11-CV-00094-BO

BRUCE BANNISTER; MAX DUTTON;  
and MARION TOWLES;

Towles,

vs.

WAL-MART STORES EAST, L.P.,

Defendant.

**APPENDIX TO DEFENDANT'S  
MOTION FOR SUMMARY  
JUDGMENT REGARDING MAX  
DUTTON'S CLAIMS**

**D-9**

**Declaration of Eric Litchfield Exhibit 9**

Email from M. Hunter to E. Litchfield, M. Fogarty, T. Battle and N. Johnson re: M.  
Dutton's Open Door (2/3/2010)

Message

**From:** Marlene Hunter [/O=WAL-MART/OU=HOMEOFFICE/CN=RECIPIENTS/CN=94883D8B32764C278890CB196CFA6941]  
**Sent:** 2/3/2010 6:38:53 PM  
**To:** Eric Litchfield [eric.litchfield@wal-mart.com]; Melody Fogarty [melody.fogarty@wal-mart.com]; Tracey Battle [tracey.battle@wal-mart.com]  
**CC:** Noah Johnson [noah.johnson@wal-mart.com]  
**Subject:** Max Dutton open door

The open door surrounding Max being able to rescind his resignation is closed. I shared with Mr. Dutton today that we will not allow him to rescind his resignation and we will pay him until February 12th the end of the pay period since we are delayed in completing the investigation into his concerns. Please be aware that we have a ongoing investigation into Mr. Dutton's concern so please use good judgment when handling any concerns that is associated with Max.

Please do not terminate Max until the pay period ends on February 12th, the termination code should state retirement, please ensure his vacation owed and accrued is handled at the time of termination so we do not have any pay issues. I would also like you to wait until Saturday, February 6th to post his store. I've asked Mr. Dutton to use the next few days to notify his team of his retirement and we do not expect him to be at work for any reason after 2/5/10 he should stay home and we will ensure he is paid until February 12th.

**Marlene Hunter PHR, Divisional Senior Director Human Resources**  
Phone 770-975-5629, Fax 479-273-8139  
marlene.hunter@wal-mart.com

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